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MAILED: July 19, 2006

In re Application of :
Cunningham, et al. :
Serial No. 09/929,957 :
Filed: August 15, 2001 : DECISION ON PETITION
For: LABEL-FREE HIGH-THROUGHPUT :
OPTICAL TECHNIQUE FOR :
DETECTING BIOMOLECULAR :
INTERACTIONS :

This is a decision on the petition filed October 21, 2005 requesting the acceptance of color photographs into the above-identified application.

On October 21, 2005, formal drawings, the present petition and authorization to charge counsel's deposit account for the \$130.00 petition fee were filed. Petitioners request that a color photograph be accepted in order to fulfill the requirement for formal drawings. Petitioners argue that the color photograph is necessary to properly depict the subject matter of the drawing. In support of the petition, three (3) copies of the color photograph and an amendment to the specification, were filed.

37 CFR § 1.84(b)(2) states that color photographs will be accepted in utility patent applications only after granting a petition explaining why the color photographs are necessary. The petition must include the following:

- (i) The appropriate fee set forth in § 1.17(h);
- (ii) Three (3) sets of color drawings; and
- (iii) The specification must contain the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

A review of the record reveals that petitioners have fulfilled the requirements of 37 CFR 1.84. The petition is granted. The color photographs have been accepted and will be forwarded to the Official Draftsperson for formal review.

PETITION GRANTED



Jill Warden
Supervisory Patent Examiner
Group Art Unit 1743